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*Attorneys for Defendant Diamond Resorts  
International, Inc.*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

LOCAL 705 INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS  
PENSION FUND, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

DIAMOND RESORTS INTERNATIONAL,  
INC., DAVID BERKMAN, STEPHEN J.  
CLOOBECK, RICHARD M. DALEY,  
FRANKIE SUE DEL PAPA, JEFFREY W.  
JONES, DAVID PALMER, HOPE S. TAITZ,  
ZACHARY D. WARREN, and ROBERT  
WOLF,

Defendants.

Case No.: 2:18-cv-01355-APG-CWH

Judge: Hon. Andrew P. Gordon

Magistrate Judge: Hon. Carl W. Hoffmann

**DEFENDANT DIAMOND RESORTS  
INTERNATIONAL, INC.'S  
RESPONSE TO MOTION TO  
APPOINT LEAD PLAINTIFF AND  
LEAD COUNSEL**

Defendant Diamond Resorts International, Inc. ("Diamond"), by its undersigned counsel,  
respectfully submits this response to the motion to appoint Lead Plaintiff and Lead Counsel (the  
"Lead Plaintiff Motions") filed on September 24, 2018 (DE 14).

Pursuant to the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 77z-1(a)(3), Diamond takes no position on the Lead Plaintiff Motion, except to note that the Court's ruling on the Lead Plaintiff Motion should not prejudice Defendants' right to challenge the selection of lead plaintiff and lead counsel later in the case, including at class certification. *See In re Extreme Networks Inc. Sec. Litig.*, No. 15-CV-04883-BLF, 2016 WL 3519283, at \*9 (N.D. Cal. June 28, 2016) (granting motion to appoint lead plaintiff "without prejudice to [d]efendants' right to challenge the adequacy of the plaintiff as class representative at the time of class certification"); *Tai Jan Bao v. SolarCity Corp.*, No. 14-CV-01435-BLF, 2014 WL 3945879, at \*4 (N.D. Cal. Aug. 11, 2014) (same).

Accordingly, Diamond reserves all rights to oppose any motion relating to certification of a plaintiff class under Rule 23 of the Federal Rules of Civil Procedure and to take discovery regarding any such issues, and reserves all rights to assert any and all defenses against any plaintiff selected as lead plaintiff in a motion to dismiss or otherwise.

Dated: September 27, 2018.

SNELL & WILMER L.L.P.

By: /s/ John S. Delikanakis

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- AND -

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*Attorneys for Defendant Diamond Resorts  
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**CERTIFICATE OF SERVICE**

On September 26, 2018, I served the foregoing document on all parties appearing in this case when filing said document through the court's PACER system with automatic e-service on all persons who have registered for e-service on PACER for this case.

DATED this 27<sup>th</sup> day of September, 2018.

/s/ Jeanne Forrest  
An employee of SNELL & WILMER L.L.P.

4849-0917-9764

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